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REMARKS

To date, the Examiner has not indicated that the subject matter of the information disclosure statement (IDS) filed June 7, 2006 has been properly considered. A copy of such IDS is submitted herewith. If the Examiner requires additional copies of any reference(s), applicant invites the Examiner to contact the undersigned. Documentation in the file wrapper of the instant application confirming the Examiner's consideration of the reference(s) is respectfully requested.

The Examiner has rejected Claims 2-12, 14-15, 17-27, 29-30, 32-42, and 44-51 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully asserts that the rejection is avoided due to clarifications made to the claims hereinabove.

The Examiner is thanked for the allowable subject matter of Claims 48, and 49. The Examiner has objected to Claims 48, and 49 as being dependent on rejected claims. Applicant respectfully points out that Claims 48 and 49 have been amended into independent form to include the limitation of intervening dependent Claim 46, as suggested by the Examiner. Thus, such claims are deemed allowed.

The Examiner has rejected Claims 1, 5-8, 12-13, 15-16, 20-23, 27-28, 31, 35-38, 42-43, and 50-51 under 35 U.S.C. 102(e) as being anticipated by Gryaznov et al. (U.S. Patent No. 6,748,534). Applicant respectfully disagrees with such rejection.

With respect to independent Claims 1, 16, and 31, the Examiner has relied on the Abstract; Figures 3-4C; Col. 2, lines 43-67; and Col. 5, line 1 to Col. 7, line 42 from the Gryaznov reference to make a prior art showing of applicant's claimed "dividing said on-access malware scan into a plurality of tasks" (see this or similar, but not necessarily identical language in the foregoing independent claims).

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Applicant respectfully asserts that the excerpts from Gryaznov relied upon by the Examiner simply teach that "[t]he header for the next news message 42 to be scanned is retrieved (block 104) by looking up the last read article number from the last read table 68 (shown in FIG. 3) for that newsgroup 43 and that news server 58, 59, 60" and "[o]nly news messages 42 which have yet been read nor have expired are scanned" (see Col. 7, lines 1-7-emphasis added). However, the mere disclosure by Gryaznov that the last read article number from the last read table is retrieved and only news messages that have not been read and are not expired are scanned simply fails to even suggest "dividing said on-access malware scan into a plurality of tasks" (emphasis added), as claimed by applicant. Clearly, scanning news messages that have not been read and are not expired, as in Gryaznov, fails to even suggest an "on-access malware scan," as claimed by applicant.

Further, with respect to independent Claims 1, 16, and 31, the Examiner has again relied on the Abstract; Figures 3-4C; Col. 2, lines 43-67; and Col. 5, line 1 to Col. 7, line 42 from the Gryaznov reference to make a prior art showing of applicant's claimed "issuing said plurality of tasks to be performed by a plurality of different computers" (see this or similar, but not necessarily identical language in the foregoing independent claims).

Applicant respectfully asserts that the excerpts in Gryaznov relied upon by the Examiner merely teach that "[t]he threads table 67 maintained in the centralized database 65 (shown in FIG. 3) is accessed to determine whether the current file thread is locked from access by other virus scanners 54, 55, 56" (see Col. 7, lines 18-22-emphasis added). In addition, Gryaznov teaches that "[i]f the file thread is locked (block 110), another thread is selected (block 109)" and "[i]f the file thread is available, the file thread is locked (block 111) by adding an entry to the threads table 67" (see Col. 7, lines 22-25-emphasis added). Clearly, the mere disclosure that a virus scanner determines if the current file thread is locked from access and locks the thread if it is available, as in Gryaznov, fails to even suggest "issuing said plurality of tasks to be performed by a plurality of different computers" (emphasis added), as claimed by applicant.

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In addition, with respect to independent Claims 1, 16, and 31, the Examiner has relied on the Abstract; Figures 3-4C; Col. 2, lines 43-67; and Col. 5, line 1 to Col. 7, line 42 from the Gryaznov reference to make a prior art showing of applicant's claimed "collating a plurality of task results corresponding to said plurality of tasks and received from said plurality of different computers to form a scan result corresponding to said on-access malware scan." (see this or similar, but not necessarily identical language in the foregoing independent claims – as amended).

Applicant respectfully asserts that the excerpts from Gryaznov relied upon by the Examiner merely teach that "[i]f any of the downloaded files are infected (block 117), a warning message is generated (block 118)" and that "each virus scanner 54, 55, 56 maintains a log file and posts an appropriate warning to the affected newsgroups 43" (see Col. 7, lines 37-42-emphasis added). However, the simply disclosing generating a warning message if any downloaded files are infected, maintaining a log file, and posting a warning to affected newsgroups, as in Gryaznov, simply fails to even suggest "collating a plurality of task results," let alone where such task results "[correspond] to said plurality of tasks and [are] received from said plurality of different computers [and are collated] to form a scan result corresponding to said on-access malware scan" (emphasis added), as claimed by applicant.

Further, with respect to independent Claims 13, 28, and 43, the Examiner has relied on the Abstract; Figures 3-4C; Col. 2, lines 43-67; and Col. 5, line 1 to Col. 7, line 42 from the Gryaznov reference to make a prior art showing of applicant's claimed technique "wherein said malware scanning task is one of a plurality of malware scanning tasks that are each part of said on-access malware scan" (see this or similar, but not necessarily identical language in the foregoing independent claims).

Applicant respectfully asserts that the excerpts from Gryaznov relied upon by the Examiner simply teach that "[e]ach of the virus scanners 54, 55, 56 operate independently of each other and therefore create the potential for multiple virus scanners 54, 55, 56 attempting to scan different parts of the same multi-part news message" (see

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Col. 6, lines 25-29-emphasis added). However, the mere disclosure that virus scanners operate independently of each other and may attempt to scan different parts of the same multi-part news message, as in Gryaznov, fails to even suggest a technique "wherein said malware scanning task is one of a plurality of malware scanning tasks that are each part of said on-access malware scan" (emphasis added), as claimed by applicant.

In addition, with respect to independent Claims 13, 28, and 43, the Examiner has relied on the Abstract; Figures 3-4C; Col. 2, lines 43-67; and Col. 5, line 1 to Col. 7, line 42 from the Gryaznov reference to make a prior art showing of applicant's claimed technique "wherein a plurality of malware scanning task results corresponding to said plurality of malware scanning tasks are collated to form a scan result corresponding to said on-access malware scan" (see this or similar, but not necessarily identical language in the foregoing independent claims).

Applicant respectfully asserts that the excerpts from Gryaznov relied upon by the Examiner merely teach that "[i]f any of the downloaded files are infected (block 117), a warning message is generated (block 118)" and that "each virus scanner 54, 55, 56 maintains a log file and posts an appropriate warning to the affected newsgroups 43" (emphasis added). However, the mere disclosure of generating a warning message if any of the downloaded files are infected, maintaining a log file, and posting a warning to the affected newsgroups, as in Gryaznov, simply fails to even suggest a technique "wherein a plurality of malware scanning task results corresponding to said plurality of malware scanning tasks are collated to form a scan result corresponding to said on-access malware scan" (emphasis added), as claimed by applicant.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor*

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Co. 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the above reference, as noted above. Thus, a notice of allowance or a proper prior art showing of each of the foregoing claimed features is respectfully requested.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. For example, with respect to Claim 10 et al., the Examiner has rejected the same under 35 U.S.C. 103(a) as being unpatentable over Gryaznov in view of Gartside (U.S. Patent No. 6,851,058). Specifically, the Examiner has relied on Col. 6, lines 17-65 from the Gartside reference to make a prior art showing of applicant's claimed technique "wherein said on-access malware scan is not further divided if said on-access malware scan is detected as having a complexity below a predetermined threshold level" (as amended).

Applicant respectfully asserts that the excerpt from Gartside relied upon by the Examiner merely teaches that "[i]f the tests 304, 320, 322, 324 indicate the archive does not contain sub-archives, does not have an excessive de-compressed size, does not contain a large number of files, and does not have too many file types, then the archive is considered to be safe, and it is set 326 to with a normal scanning priority" (emphasis added). Clearly, the mere disclosure that an archive without sub-archives, an excessive de-compressed size, a large number of files, and too many file types is considered to be safe and set with a normal scanning priority, as in Gartside, fails to even suggest an "on-access malware scan [that] is not further divided," as appellant claims, let alone a specific technique "wherein said on-access malware scan is not further divided if said on-access malware scan is detected as having a complexity below a predetermined threshold level" (emphasis added), as claimed by applicant.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or

in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

To this end, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P466/01.042.01).

Respectfully submitted,
Zilka-Kotab, PC.

Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100